Court No.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 3328 of 2001 (S/S)

State of U.P. through Executive Engineer,
Upper Ganga Canal Modernization Division-4,
Hardwar

..... Petitioner.

Versus

1. The Presiding Officer, Labour Court,
   U.P. at Dehradun
2. Sri Om Singh S/o Sri Kanshi Ram.
   R/o Village Bajuheri, P/o Mehwar,
   District- Hardwar.

..... Respondents.

Learned Standing Counsel for the State of U.P. / petitioner,
None appears for the respondent No.2.

Date: 23rd Sept., 2005.

Hon'ble P.C. Verma, J.

This petition has been filed by the petitioner seeking writ of certiorari quashing the impugned award dated 28.02.2000 passed by respondent No. 1 in Industrial Dispute No. 284 of 1999, contained in Annexure No.4 to the writ petition.

2. The case of workman/respondent No.2 is that he had worked under the employers from 01.9.1990 to 31.5.1991 as Beldar on must roll but on 01.6.1991 he was terminated from service without any notice or pay in lieu of notice and compensation which is illegal and against the provisions of Section 6 N of the U.P. Industrial Disputes Act, 1947. Hence he raised an Industrial dispute.

3. By notification of the U.P. Government, the dispute was referred in the year 1999 which was in the following terms:-

> "Whether the termination of services of workman Om Singh S/o Kanshi Ram Beldar, by the employers from 01.6.1991 is just and legal?"

4. I have heard the learned counsel for the petitioner and perused the impugned award. The Labour Court relied on the muster roll filed by the employers, which show that the workman worked in the department of the petitioner from 01.9.1990 to July 1991 and during this period he had worked 234 days, but after adding the Sundays and other gazetted holidays the number of working days increases to more than 240 days. The employers did not file the muster rolls for the months of September 1990 and October 1990. The Labour Court rightly held that non-filing of complete muster roll creates doubt and rightly drew adverse inference against the employers. The findings recorded by the Labour Court that the termination of the workman without following the provisions of Section 6N of the U.P. Industrial Disputes Act is illegal and I am of the view that the Labour Court reached to a right conclusion.

5. The workman has established that he has completed 240 working days. Thus, the order terminating his services was passed in violation of provisions of Section 6N of the U.P. Industrial Disputes Act, 1947 which is wholly illegal.

6. In view of the findings recorded above, I do not find any infirmity or illegality in the order passed by the Labour Court. The findings recorded by the Labour Court are findings of act and this Court, therefore, in exercise of powers under Article 226 of the Constitution of India, declines to interfere with the findings recorded by the Labour Court.

7. Accordingly, the writ petition has no force and is dismissed. No order as to costs.

(P.C. Verma, J.)

23.09.2005
P. Singh